

Rocky Flats Citizens Advisory Board Recommendation 96-18

Soil Action Levels Decision: Recommendations on Institutional Controls

**Submitted to the Department of Energy, the Environmental Protection Agency and the Colorado
Department of Public Health and Environment**

Approved December 5, 1996

While Rocky Flats is not a low-level waste disposal site, federal regulations require that such sites be owned in fee by federal or state government. 10 CFR 61.7(b)(3). Furthermore, "institutional controls may not be relied upon for more than 100 years." 10 CFR 61.59(b). Similarly, regulations for high level waste geologic depositories require that the land should be free of encumbrances, including mineral rights; that DOE exercise any jurisdiction and control over surface and subsurface estates that is necessary to prevent human actions that could threaten the integrity of the repository; and DOE must obtain all water rights at the site, section 61.121(b) and (c).

Institutional controls are used at cleanup sites when total remediation is not technically and/or economically feasible. Generally, RFCAB questions the viability of institutional controls for the thousands of years that contamination left at Rocky Flats would remain dangerous. With this concern in mind, RFCAB has the following suggestions concerning institutional controls:

- If institutional controls must be used, we believe the most effective controls include land ownership in perpetuity and land use mandated by legislation. Controls at the Rocky Mountain Arsenal, for example, include federal ownership and direct control of the property by the Department of the Interior and legislation specifying land use. Assumptions regarding groundwater use, deed restrictions, signs and fences alone, for instance, are not sufficient institutional controls for Rocky Flats.
- Rather than assuming institutional controls will be necessary in the long-term, responsible parties should use the highest technology possible to mitigate, and whenever possible eliminate, movement of dangerous substances off site.

The Rocky Flats Citizens Advisory Board is a community advisory group that reviews and provides recommendations

on cleanup plans for Rocky Flats, a former nuclear weapons plant outside of Denver, Colorado.

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